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A Review on Compliance Rating: FATF Special Recommendation IX Cross Border Declaration or Disclosure

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Abstract

FATF Special Recommendation IX (SR IX) focuses on cross border declaration or disclosure with the objective to detect and prevent illicit cross-border transportation of cash and bearer negotiable instruments. In complying with the recommendation, countries are required to i) have measures for detection, ii) ensure that relevant authorities are competent to stop or restrain and iii) ensure that effective, proportionate and dissuasive sanctions are available to deal with any irregularities. However, there are countries which are still struggling to comply with the special recommendation since it is challenging. Therefore, this study investigates on the compliance ratings of 40 countries on FATF Special Recommendation IX (SR IX) based on Mutual Evaluation Reports issued by Asia Pacific Group on Money Laundering (also known as APG). Based on the Mutual Evaluation Reports, this study also looks into recommendation and comments given by respective panels. The compliance ratings together with panel's recommendation and comments compiled in this study will be helpful to relevant authorities for their countries' future improvement. The findings will also highlight on issues related to cross border declaration or disclosure for future research.

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Keywords: FATF Special Recommendation IX; Cross Border Declaration or Disclosure; APG Mutual Evaluation Report; Compliance Rating

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1. Introduction

Borderless trading activities and the increased concerns about various predicate offences such as drug trafficking, tax evasion and transnational fraud have led to an increased focus on money laundering and its regulation. Money laundering has occupied the minds of regulators and law enforcement agencies for many centuries as it continues to pose significant threat to countries and financial systems around the world. The negative economic effects of money laundering on economic development are difficult to quantify. Money laundering are done in various forms, but launderers have always searched for processes to turn their proceeds into usable assets, without leaving any paper trail (Shanmugam, Nair, & Suganthi, 2003). Therefore, it has been difficult for the law enforcement agencies and prosecutors to detect money laundering activities, what else to gather evidence for court hearing (Mohamed & Ahmad, 2012).

Money laundering is defined as the conversion of criminal proceeds of crime so as to disguise their illegal origin (Altinkaya & Yucel, 2014). There are three main methods of moving money for the purpose of disguising its origins and integrating it into the formal economy which are, i) through the use of the financial system; ii) physical movement of money (e.g. through the use of cash couriers); and iii) physical movement of goods through the trade system. According to FATF, only ten percent of international trade is financed through methods which could be monitored by financial sector. Eighty percent is financed through banking system, but launderers believe that this method is traceable and have higher potential of getting caught. The remaining ten percent uses informal financing which involves underground banking (FATF, 2008).

Cash and bearer negotiable instruments present particular money laundering/terrorist financing risks because of their portability and lack of an audit trail (AIC, 2010). The alternative remittance system, which is a traditional financing channel, is most favoured by dealers in “hot money” as it is highly trust-based, anonymous, inexpensive, speedy, accessible and convenient (Li, Liu, & Ge, 2012; Freeman & Ruehsen, 2013). Money laundering usually starts with cash, which like floodwater, relentlessly seeks out any crack and vulnerability in our AML system (Simser, 2013). Cash transactions allows the businesses to avoid any paper unlike cash deposit system which is easily traced and detected because of advance and technologies in banking and financial system in today’s modern world trail (H. C. Choo, Amirrudin, Adura, Noruddin, & Othman, 2014). In accordance to the issue, FATF has introduced FATF Special Recommendation IX.

FATF Special Recommendation IX (SR IX) focuses on cross border declaration or disclosure with the objective to detect and prevent illicit cross-border transportation of cash and bearer negotiable instruments. This recommendation will manage the risk of the second method of money laundering which is physical movement of money. In complying with the recommendation, countries are required to i) have measures for detection, ii) ensure that relevant authorities are competent to stop or restrain, and iii) ensure that effective, proportionate and dissuasive sanctions are available to deal with any irregularities. The legislative should enable the confiscation of such currency or instruments.

However, there are countries which are still struggling to comply with the special recommendation as outline by FATF because it requires the fulfilment of all three requirements in order to receive a compliant (C) rating. Therefore, by using content analysis approach, this study investigates on the compliance ratings of 40 countries on FATF Special Recommendation IX (SR IX) based on their ratings given on the Mutual Evaluation reports issued by Asia Pacific Group on Money Laundering (also known as APG). Based on the Mutual Evaluation Reports, this study also looks into recommendation and comments given by respective panels. The compliance ratings together with panel’s recommendation and comments compiled in this study will be helpful to relevant authorities for their countries’ future improvement. The findings will also highlight on issues related to cross border declaration or disclosure for future research.

2. Literature Review

2.1 Cash courier

There are three main methods of moving money for the purpose of disguising its origins and integrating it into the formal economy. One of the methods is by physical movement of money (e.g. through the use of cash couriers) (FATF, 2008). It is also known as cash smuggling. Cash smuggling involves physical movement of cash at the cross border, then deposited in banking institution, paid for real estate or invested to establish companies (He, 2010). Many illicit transactions involves cash in order to prevent an incriminating paper trail (Kar & Leblanc, 2013). Cash and bearer negotiable instruments present particular money laundering/terrorist financing risks because of their portability and lack of an audit trail (AIC, 2010). The alternative remittance system, which is a traditional financing channel, is most favored by dealers in "hot money" as it is highly trust-based, anonymous, inexpensive, speedy, accessible and convenient (Li, Liu, & Ge, 2012; Freeman & Ruehsen, 2013). Money laundering usually starts with cash, which like floodwater, relentlessly seeks out any crack and vulnerability in our AML system (Simser, 2013). Cash transactions allows the businesses to avoid any paper unlike cash deposit system which is easily traced and detected because of advance and technologies in banking and financial system in today's modern world trail (H. C. Choo, Amirrudin, Adura, Noruddin, & Othman, 2014). It is supported by Ping He (2010) and Dutta, Saadi, and Zhu (2013), where she said that cash smuggling at the cross border is a simple way for the criminals to evade tracing of the authorities. It's very difficult to trace the sources of cash currencies, those bank branches and private underground illegal banks dispersed in lower level areas are main choices for the money laundering activities (Tang & Yin, 2005). Therefore, the necessity of money laundering is explained as nearly all illegal (criminal) transactions involves cash (Schneider, 2010). Thus, FATF has imposed SR IX which focuses on cross border declaration or disclosure to mitigate money laundering activities which involves cash and bearer negotiable instruments.

2.2 FATF Recommendations

The Financial Action Task Force (FATF), has sets international standards, develops and promotes policies to combat money laundering and terrorism financing activities. A set of 40 Recommendations + 9 Special Recommendations was introduced by FATF in 2003 to guide the fight against money laundering and countering the financing of terrorism (AML/CFT). The 9 special recommendations include recommendations for dealing with financing channels specific to terror groups, such as non-profit organizations (NPO) or cash couriers (in bulk cash smuggling activities). FATF 40 + 9 Recommendations were designed to combat complicated money laundering techniques and covers the use of professionals to advise and assist in money laundering (FATF, 2004). The three primary objectives of the FATF 40 + 9 Recommendations are to: i) support the criminalization of money laundering and the financing of terrorism; ii) ensure that assets linked to money laundering or the financing of terrorism can be frozen and confiscated; and iii) ensure that financial institutions and other regulated businesses comply with the recommendations (FATF, 2004). During the revision of FATF standards in February 2012, the 40 + 9 Recommendations have been revised and the recommendations have been changed to 40 Recommendations. All special recommendation has been included under the 40 recommendations. SR IX on cross border declaration or disclosure has been included under recommendation 32 on cash couriers. In this paper, the discussions are based on the FATF 40 + 9 Recommendations (FATF, 2004) as no country has yet been assessed using the 2012 FATF Recommendation.

Mutual evaluation report is issued based on information obtained and observations made during a visit by small team of selected experts from the legal, financial and law enforcement fields of other FATF member countries. Evaluation is done on member countries on the implementation of FATF 40 + 9 Recommendations and highlight on areas of concern which does not fulfill the FATF Recommendations (K. K. R. Choo, 2013). Countries should consider applying the FATF Recommendations to businesses and professions, other than designated non-financial businesses and professions (DNFBPs), which pose a money laundering or terrorist financing risk.

According to FATF (2004), each recommendation is rated on five point scales as below:

- **Compliant (C)** - The recommendation is fully observed with respect to all essential criteria.
- **Largely Compliant (LC)** – There are only minor shortcomings, with a large majority of the essential criteria being fully met.
- **Partially Compliant (PC)** – The country has taken some substantiate action and complies with some of essential criteria.
- **Non-Compliant (NC) –** There are major shortcomings, with a large majority of the essential criteria not being met.

- **Not Applicable (NA) -** A requirement or part of a requirement does not apply, due to the structural, legal or institutional features of a country e.g. a particular type of financial institution does not exist in that country

Note that the intention of this paper is neither to evaluate the effectiveness of mutual evaluations nor to examine the process and/or the composition of the mutual evaluation team. However, the analysis of the compliance ratings from mutual evaluation reports works as guidance to the ranking and compliance of countries.

2.3 Special Recommendation IX – Cross Border Declaration or Disclosure

Special Recommendation IX (SR IX) was developed with the objective to ensure that criminals will not be able to finance their activities or launder their proceeds of crimes through physical cross-border transportation of currency and bearer negotiable instruments. Specifically, it aims to ensure that countries have measures to: (i) detect the physical cross border transportation of currency and bearer negotiable instruments; (ii) stop or restrain currency and bearer negotiable instruments that are suspected to be related to terrorist financing or money laundering; (iii) stop or restrain currency or bearer negotiable instruments that are falsely declared or disclosed; (iv) apply appropriate sanctions for making a false declaration or disclosure; and (v) enable confiscation of currency or bearer negotiable instruments that are related to terrorist financing or money laundering.

SR IX requires member countries to have all 5 measurements. The country must have a comprehensive declaration or disclosure system which requires declaration at both incoming and outgoing transportation of currency and bearer negotiable instruments. All persons who involves in physical cross-border transportation of currency or bearer negotiable instruments which values more than threshold of EUR/USD 15,000 must submit a truthful declaration to the designated competent authorities. Upon discovery of false declaration/disclosure or failure to declaration/disclosure, designated competent authorities should have the authority to obtain further information from carrier with regard to the origin and their intended use. All information obtained through declaration/disclosure system must be available to the financial intelligence unit (FIU) and adequate coordination among relevant authorities such as immigration and customs must also be established. Competent authorities must also be able to stop or restrain cash or bearer negotiable instruments for a reasonable time in order to ascertain evidence. Countries must also have an effective, proportionate and dissuasive sanction, which enable the confiscation of such currency or bearer negotiable instruments. Lastly, authorities responsible for implementation of the system must have adequate financial, human and technical resources. This is to ensure that the staffs maintain high professional standards, including standards concerning confidentiality, and should be of high integrity and be appropriately skilled.

3. Research Methodology

This study reviews the mutual evaluation reports on the extent of compliance of SR IX, cross border declaration or disclosure. SR IX is part of the FATF calls to member countries to review the adequacy of their laws and regulations relating to physical cross-border transportation of currency and bearer negotiable instruments from the abuse of money laundering and terrorism financing. It replicates the method used by Omar, Johari, & Arshad (2014) which reviewed evaluation reports on Special Recommendation VIII, which is on non-profit organization (NPO). The reviews are done on 40 member countries. The list of countries is as per Table 1.

4. Findings and Discussion

4.1 Review of Evaluation Reports

- Afghanistan

Afghanistan received noncompliant rating with regards to SR IX. Afghanistan has not met the requirement for FATF SR IX. There is no cross border declaration/disclosure systems implemented for inbound passenger but limited implementation was done for outbound passengers. Customs does not have professional capacity to address the scope of problem. There is also no legal stipulation for monitoring and sanctioning false declaration, results to no comprehensive records or statistics of currency declaration and seizures.

Table 1: List of countries

No.	Country
1	Afghanistan
2	Australia
3	Bangladesh
4	Brunei
5	Cambodia
6	Canada
7	China
8	Chinese Taipei
9	Cook Islands
10	Fiji
11	Hong Kong, China
12	India
13	Indonesia
14	Japan
15	Korea
16	Lao
17	Macao, China
18	Malaysia
19	Maldives
20	Mongolia
21	Myanmar
22	Nauru
23	Nepal
24	New Zealand
25	Niue
26	Pakistan
27	Palau
28	Papua New Guinea
29	Philippines
30	Republic of Marshall Islands
31	Samoa
32	Singapore
33	Solomon Islands
34	Sri Lanka
35	Thailand
36	Timor-Leste
37	Tonga
38	United States of America
39	Vanuatu
40	Vietnam

- Australia

Australia received partially compliant rating with regards to SR IX. Australia has met part of the requirement for FATF SR IX. However, Australia has comprehensive system for currency movement but no corresponding system for declaration/disclosure of BNI. Therefore, Australia has no ability to stop or restrain bearer negotiable instruments in relation to a false declaration or disclosure and no sections were implemented for false declaration/disclosure relating to BNI.

- Bangladesh

Bangladesh received partially compliant rating with regards to SR IX. Bangladesh has met part of the requirement for FATF SR IX. Although cross border declaration system was implemented, it was not targeted to detect cash couriers related to ML/CFT. More efforts could be made to ensure better cooperation and exchange of information with the FIU. There are also inadequate sanctions available and statistics were not available to show effective implementation of measures to implement SR IX.

- Brunei

Brunei received non-compliant rating with regards to SR IX. Brunei has not met the requirement for FATF SR IX because there is no declaration or disclosure system being implemented in Brunei.

- Cambodia

Cambodia received non-compliant rating with regards to SR IX. Cambodia has not met the requirement for FATF SR IX. There is a declaration system in place for cross border transportation of currency but with no mechanism to ascertain origin of the currency and its intended use of the currency. Cambodia has no effective requirement for outbound travelers to fill in a declaration form concerning the amount of currency or BNI they are carrying. The existing system also does not allow for temporary restraint to facilitate further investigation as to the origin or purpose.

- Canada

Canada received compliant rating with regards to SR IX. Canada has met all requirements for FATF SR IX. However, Canada was recommended to invest in detection and investigation of out-going cross-border transportations of cash or BNI. This is because it is not clear that Canada has adequately implemented measures on detection and investigation of out-going cross-border transportations of cash or BNI.

- China

China received partially compliant rating with regards to SR IX. China has met part of the requirement for FATF SR IX. However, China declaration system only covers cash declaration. Reports on cash declarations/seizures are not being provided to the FIU and are not being used to identify and target ML/CFT activities.

- Chinese Taipei

Taipei received partially compliant rating with regards to SR IX. Taipei has met part of the requirement for FATF SR IX. However, there is a lack of resources available to the Customs to enforce the declaration which appears to be undermining its effectiveness. There is also deficiency in the sanctions available for non-compliance with the declaration system and smuggling of cash.

- Cook Island

Cook Island received partially compliant rating with regards to SR IX. Cook Island has met part of the requirement for FATF SR IX. However, there is an absence of current policy for the implementation of cross border reporting legislation. Current cross border reporting only relates to carriage by an individual, and it need to be extended to include all forms of physical cross border movement of currency are electronically stored but are not able to be effectively analyzed within the database. This lead to inability of the country to detect false/failed declarations and no sanctions has been imposed.

- Fiji

Fiji received partially compliant rating with regards to SR IX. Fiji has met part of the requirement for FATF SR IX. However, there are significant deficiencies in the system especially concerning on the monitoring of physical cross border movement of currency and some forms of BNI. Fiji was recommended to develop an action plan in consultation with the relevant authorities for the effective implementation of the reporting regime provided.

- Hong Kong

Hong Kong received noncompliant rating with regards to SR IX. Hong Kong has not met the requirement for FATF SR IX because there is no declaration or disclosure system being implemented in Hong Kong for detection, seizure or confiscation of cross-border movement of currency or BNI. Authorities are not empowered to ask for further information where a false/misleading disclosure/declaration had been made. There is also no offence for making a false/misleading declaration or disclosure and authorities are not empowered to seize or confiscate property resulting from a false/misleading disclosure or declaration. There are also no sanctions and statistics maintain on cross border movement of currency or BNI.

- India

India received partially compliant rating with regards to SR IX. India has met part of the requirement for FATF SR IX. India has cross border declaration/disclosure systems but it appear to be applied only to currency and BNI via airports, with no information on movements of currency and BNI via land borders or unaccompanied movement of currency through postal and cargo systems. The shortcomings identified with regard to the attachment, confiscation and forfeiture provisions and to the freezing, seizing and attachment of property related to ML/CFT.

- Indonesia

Indonesia received partially compliant rating with regards to SR IX. Indonesia has met part of the requirement for FATF SR IX. Indonesia has comprehensive system for currency movement but declaration/disclosure of BNI was not covered. There is weak detection capacity and no clear authority to restrain money when a false or no declaration is made. Proportionate and dissuasive administrative penalties were not available and criminal penalties are limited and not being applied.

- Japan

Japan received non-compliant rating with regards to SR IX. Japan has not met the requirement for FATF SR IX. There is a declaration system in place for cross border transportation of currency but with no mechanism to ascertain origin of the currency and its intended use of the currency. Japan needs to establish an AML/CFT enforcement capability for cross border movement of currency and BNI. Information from reports on cross border movement of currency or BNI needs to be made available to the FIU on a timely basis. Sanctions for breach of cross border reporting requirements need to extend to legal persons, and to company directors and senior management. Japan needs to enact provision for seizure of suspected proceeds and instrumentalities of ML/CFT. Japan also needs to establish an ability to co-operate with a foreign jurisdiction with a view toward establishing the source, destination, and purpose of the movement of currency and BNI.

- Korea

Korea received largely compliant rating with regards to SR IX. Korea has met most of the requirement for FATF SR IX. However, the sanctions imposed on persons who do not make declarations or who make false declarations are only in the nature of fines and these are too low to be considered dissuasive. The sanction imposed was not considered to be sufficiently dissuasive.

- Lao

Lao received non-compliant rating with regards to SR IX. Lao has not met the requirement for FATF SR IX. Current declaration requirement does not clearly include all BNI and requirement for declaration does not cover for main or cargo. The lack of effectiveness of the current system is highlighted by the fact that no voluntary declaration has ever been made by passengers. Lao has no provision in Customs Law that empowers customs officers in discharging their duties on declaration requirements and sanctions of cross-border physical transportation of currency for purposes of ML/CFT. The power of confiscation is also not stipulated in law.

- Macao

Macao received non-compliant rating with regards to SR IX. Macao has not met the requirement for FATF SR IX because there is no declaration or disclosure system being implemented in Macao for detection, seizure or confiscation of cross-border movement of currency or BNI. The competent authorities are significantly under-equipped and staffed based on travelers into and out of Macao. In fact, training in AML / CFT for Customs Officers is non-existent. Therefore, there is no use of targeted enforcement techniques.

- Malaysia

Malaysia received non-compliant rating with regards to SR IX. Malaysia has not met the requirement for FATF SR IX. Although Malaysia has a system for completing a cross-border declaration for cash and travelers' cheques, in practice the system is deficient. The sanctions were available but they are rendered ineffective due to deficiencies in the declaration system. While a limited number of cross-border currency detections have occurred over the past 10 years, they generally do not derive from the operation of the declaration system.

- Maldives

Maldives received non-compliant rating with regards to SR IX. Maldives has not met the requirement for FATF SR IX because there is no declaration or disclosure system being implemented in Maldives.

- Mongolia

Mongolia received partially compliant rating with regards to SR IX. Mongolia has met part of the requirement for FATF SR IX. However, Mongolia has a declaration system for currency movement but no corresponding system for declaration/disclosure of bearer negotiable instruments. There is also no mechanism to ascertain origin of the currency and its intended use. No procedure was in place to ensure that the FIU is notified on suspicious cross-border transport of currency. Sanctions available for false declaration were also inadequate.

- Myanmar

Myanmar received partially compliant rating with regards to SR IX. Myanmar has met part of the requirement for FATF SR IX. However, there is a lack of effectiveness in implementing Myanmar's currency and valuable item control regime outside of Yangon International Airport. The declarations received are not computerized and was not readily made available to the FIU. Myanmar also has no law in respect to the importation of funds to be used to support terrorist organizations. Therefore, Myanmar has not met the requirement for comprehensive declaration system and readily made information available to the FIU.

- Nauru

Nauru received partially compliant rating with regards to SR IX. Nauru has met part of the requirement for FATF SR IX. However, the declaration system shows some gaps. The cross border declarations are not proactively shared with the FIU. The authorities do not have clear authority to request and obtain information on the origin of detected currency or BNI. Moreover, sanctions are not implemented in relation to cross border declaration systems. It can be seen that comprehensive controls are not yet being implemented.

- Nepal

Nepal received non-compliant rating with regards to SR IX. Nepal has not met the requirement for FATF SR IX. There is a cross border declaration/disclosure systems implemented for incoming passenger but it is only applicable at the only one international airport. Customs does not have professional capacity to address the scope of problem. There is also no effective monitoring system in place for controlling bulk cash smuggling and cross border illegal movement of gold, precious metals and stones. No system was also in place for confiscating currencies pursuant to UNSCRs sanction lists.

- New Zealand

New Zealand received partially compliant rating with regards to SR IX. New Zealand has met part of the requirement for FATF SR IX. New Zealand has comprehensive system for currency movement but no corresponding system for declaration/disclosure of bearer negotiable instruments, unaccompanied cash or BNI, and cash or BNI sent via mail or in containerized cargo. The Customs are not able to stop or restrain currency or BNI solely for non-disclosure or on the basis of a false declaration since they do not have the authority to request and obtain further information. The fines applicable for false or non-declaration are too low to be considered dissuasive. Few sanctions have been applied for non-compliance of declaration obligation.

- Niue

Niue received partially compliant rating with regards to SR IX. Niue has met part of the requirement for FATF SR IX. However, few issues were highlighted. Niue has lack of legal provision to empower authorized officers to request for information about the origin and the intended use and destination of the currency. There is also lack of policy and procedure or regulation regarding the seizure process of any currency. Niue also has no proper coordination and sharing of information amongst local authorities regarding cross border movement of currency. There is also lack of sanctions for making false declaration or disclosure.

- Pakistan

Pakistan received non-compliant rating with regards to SR IX. Pakistan has not met the requirement for FATF SR IX. Pakistan's partial declaration system is focused on foreign exchange control rather than AML/CFT. The system implemented covers people transporting foreign currency out of Pakistan but does not cover people bringing foreign currency into Pakistan. There is also lack of sharing information among relevant agencies upon discovery of a false declaration and suspicion of money laundering or terrorist financing.

- Palau

Palau received largely compliant rating with regards to SR IX. Palau has met most of the requirement for FATF SR IX. However, Palau was recommended to reconsider the exemption of the declaration duty for certain persons or companies because the exemption for banks, common carriers of passengers or goods, and traveler checks issuers does not fall within the criteria for SR IX. The authorities should also consider bringing the threshold of funds above $5,000 that are transmitted through financial institutions is in line with the threshold of the cross-border cash declaration duty.

- Papua New Guinea

Papua New Guinea received non-compliant rating with regards to SR IX. Papua New Guinea has not met the requirement for FATF SR IX because there is no declaration or disclosure system being implemented. Therefore, there is no information available to FIU concerning cross border currency movements. No statistics was available on reports made under foreign currency controls and no training was conducted for border enforcement staffs. Therefore, there is an issue on competency of the local authority in managing cross border current movements.

- Philippines

Philippines received partially compliant rating with regards to SR IX. Philippines have met part of the requirement for FATF SR IX. However, Philippines has very weak implementation of the cross border reporting requirement, which appears to result from no clear policy to cover all entry points, and weak capacity to target and discover cash couriers. There is also insufficient customs examiners at arrival and departure areas of international airports and seaports to enable the effective implementation of the Philippine's law relating to import and export of cash and bearer negotiable instruments. No statistics are available and no information showing safeguards to ensure the proper use of information and data provided pursuant to the currency declaration system.

- Republic of Marshall Islands

Republic of Marshall Islands received non-compliant rating with regards to SR IX. Republic of Marshall Islands has not met the requirement for FATF SR IX because there is no declaration or disclosure system being implemented in Republic of Marshall Islands. There are also no adequate procedures to safeguard information and no sanction was made available.

- Samoa

Samoa received partially compliant rating with regards to SR IX. Samoa has met part of the requirement for FATF SR IX. Although the border cash declaration system is in place, more efforts could be made to ensure better cooperation and exchange of information between the FIU, Customs department and other governmental agencies. Low number of border cash transactions reports generated also suggests that the effectiveness of the regime could be enhanced through organizing training and awareness rising in association to money laundering and terrorist financing threats.

- Singapore

Singapore received largely compliant rating with regards to SR IX. Singapore has met most of the requirement for FATF SR IX. However, the effectiveness of the declaration system is still under question. This is because the declaration system is very recent and only one month of statistics has been provided. Therefore, its effectiveness and implementation across all agencies cannot yet be fully assessed.

- Solomon Islands

Solomon Islands received partially compliant rating with regards to SR IX. Solomon Islands have met part of the requirement for FATF SR IX. Solomon Islands have implemented declaration system for currency movement. However, the currency declaration system is applied only for passengers by air. There seems to be a concern regarding currency declaration system as it was just started. Statistics available shows there were 14 cases of declared currency and one case of undeclared currency. In order to achieve compliant rating, the assessors recommended that, Solomon Islands should apply the same currency declaration to passengers by sea and crew and implement a declaration system with a prescribed form to currency carried or to be carried into and out of Solomon Islands by sea, air, or postal cargo.

- Sri Lanka

Sri Lanka received non-compliant rating with regards to SR IX. Sri Lanka has not met the requirement for FATF SR IX. There is a declaration system in place for cross border transportation of currency but with no mechanism to ascertain origin of the currency and its intended use in relation to money laundering or terrorist activity. Sri Lanka also does not have a mechanism in place to maintain comprehensive statistics or to pass on information relating to declarations of cross border transportation to the FIU when established.

- Thailand

Thailand received non-compliant rating with regards to SR IX. Thailand has not met the requirement for FATF SR IX because there is no declaration or disclosure system being implemented in Thailand. There is no authority to stop or restrain currency or bearer negotiable instruments where there is a suspicion of ML/CFT activity. In fact, all declarations made were not made available to the FIU. Thailand has no ability to seize, freeze and confiscate proceeds of crime and funds related to TF. There are also no sanctions available for cross border physical transportation of currency for purposes of ML or TF.

- Timor-Laste

Timor-Laste received partially compliant rating with regards to SR IX. Timor-Laste has met part of the requirement for FATF SR IX. However, Timor-Laste does not have computerized database for maintaining and easy retrieval of information contained in declarations. Penalties for failing to declare and/or false declarations have also not been sufficiently applied.

- Tonga

Tonga received non-compliant rating with regards to SR IX. Tonga has not met the requirement for FATF SR IX because there is no declaration or disclosure system being implemented in Tonga for detection, seizure or confiscation of cross-border movement of currency or BNI. Powers to stop or restrain currency and bearer negotiable instruments are not clearly articulated in the law. Sanctions are not effective, proportionate and dissuasive and are not clearly specified in law in relation to ML/CTF. Customs does not have systems in place for analyzing or identifying - border information in terms of suspicious cases related to ML/CTF. There is no formal information sharing capability among competent authorities. Insufficient training was also undertaken on AML/TF related matters and intelligence recording.

- United States of America (USA)

USA received compliant rating with regards to SR IX. USA has met all requirements for FATF SR IX. However, the evaluation report recommended USA to invest in detection and investigation of out-going cross-border transportations of cash or negotiable bearer instrument. Additionally, the authorities should focus on conducting thorough border checks of people, vehicles, trains, cargo, etc., without allowing the level of thoroughness to be dictated by the volume of traffic waiting to cross the border. This is because, it is not clear that USA has adequately implemented measures on detection and investigation as well as the resources, techniques and methods to counter out-going cross-border transportations of cash or negotiable bearer instrument.

- Vanuatu

Vanuatu received non-compliant rating with regards to SR IX. Vanuatu has not met the requirement for FATF SR IX because Vanuatu has not implemented cross border declaration/disclosure systems. There is no system being implemented for tracking cross border currency movement and mechanism in place to notify travelers of cash on reporting requirements. Administrative measures required by law to implement cross border currency reporting legislation, such as the delegation of "authorized officers", was also not been undertaken. All requirements for FATF SR IX have not been met by Vanuatu which results to non-compliant rating.

- Vietnam

Vietnam received partially compliant rating with regards to SR IX. Vietnam has met part of the requirement for FATF SR IX. However, Vietnam has a declaration system for currency movement but no corresponding system for declaration/disclosure of bearer negotiable instruments. Sanctions implemented are not effective, proportionate and dissuasive and are not clearly specified in law in relation to ML/TF. There is also issue on competency of the authorities, whereby Customs does not have methods in place for analyzing or identifying their collected cross-border information in terms of suspicious cases related to ML/TF in order to notify AMLIC. The authorities cannot demonstrate that there is an effective system in place due to a lack of statistics provided. Therefore, the rating is given due to lack of ML/TF dedicated or specialized staff and comprehensive statistics.

Table 2 below summarizes the ratings for each country for Special Recommendation IX which is on cross border declaration or disclosure.

Table 2. Summary of Special Recommendation IX for each country

No.	Country	Rating	Last MER
1	Afghanistan	NC	2011
2	Australia	PC	2006
3	Bangladesh	PC	2009
4	Brunei	NC	2010
5	Cambodia	NC	2007
6	Canada	C	2008
7	China	PC	2007
8	Chinese Taipei	PC	2007
9	Cook Islands	PC	2009
10	Fiji	PC	2006
11	Hong Kong, China	NC	2008
12	India	PC	2010
13	Indonesia	PC	2008
14	Japan	NC	2008
15	Korea	LC	2009
16	Lao	NC	2011
17	Macao, China	NC	2007

18	Malaysia	NC	2007
19	Maldives	NC	2011
20	Mongolia	PC	2007
21	Myanmar	PC	2008
22	Nauru	PC	2012
23	Nepal	NC	2011
24	New Zealand	PC	2010
25	Niue	PC	2012
26	Pakistan	NC	2009
27	Palau	LC	2008
28	Papua New Guinea	NC	2011
29	Philippines	PC	2009
30	Republic of Marshall Islands	NC	2011
31	Samoa	PC	2006
32	Singapore	LC	2008
33	Solomon Islands	PC	2010
34	Sri Lanka	NC	2006
35	Thailand	NC	2007
36	Timor-Leste	PC	2012
37	Tonga	NC	2010
38	United States of America	C	2006
39	Vanuatu	NC	2006
40	Vietnam	PC	2009

4.2 Discussion

Out of 40 member countries, only 2 countries received compliant rating based on the review of the mutual evaluation reports. They are the United States of America (USA) and Canada. The review indicates that both USA and Canada had fully observed and implemented the recommendations under SR IX on cross border declaration or disclosure. However, these countries should further invest in detection and investigation as well as the resources, techniques and methods to counter out-going cross border transportations or cash or any negotiable bearer instrument. This means that these countries are still lacking on out-going cross border transportation of cash or negotiable bearer instrument although they obtained compliant rating.

Meanwhile, 3 member countries received largely compliant rating from the review of the mutual evaluation reports. They are Palau, Korea, and Singapore. As for Korea, the sanctions imposed on persons who do not make declarations are only in the nature of fines and is not considered as dissuasive. Palau and Singapore has a declaration system but there is a significant deficiency in the declaration system. Therefore, there is a need to have a comprehensive declaration system which fulfills all the requirements outlined by the FATF in order to obtain compliant rating.

On the other hand, 18 member countries received partial compliant from the review of the mutual evaluation reports. The review indicates that there is lack of effectiveness on the implementation of declaration system on cross border movement of cash and bearer negotiable instruments. There are few countries which have declaration system but their limitation was on the sanctions and ability to stop or restrain bearer negotiable instruments in relation to false declaration or disclosure. Meanwhile, there are also countries which do not have computerized declaration system or computerized database for maintaining and easy retrieval of information contained in declarations, which failed to meet the second requirement under SR IX. Based on the review, countries obtained partial compliant due to i) lack of comprehensive computerized declaration system which allow data analysis and retrieval, ii) no sanctions for false declaration/disclosure relating to cash or bearer negotiable instruments, iii) no ability to stop or restrain bearer negotiable instruments in relation to false declaration or disclosure, and iv) inadequate coordination among customs, immigration and other related authorities on issues related to the implementation of SR IX.

Lastly, 17 member countries received noncompliant from the review of the mutual evaluation reports. Basically, these countries had not followed the recommendation suggested by FATF. They had not undertaken a review of the adequacy of existing laws and regulations that were related to SR IX on cross border declaration or disclosure. Based on the review, the challenges was on their local authority, because of lack of understanding and no comprehensive records or statistics of currency declarations and seizures. Another limitation was on the data availability to the financial intelligence unit (FIU) on timely basis. However, there are also few countries which did not meet all requirements under SR IX. It shows that the awareness on the risk and consequences of not having proper declaration systems remains low.

Therefore, there is a need to educate all member countries on the importance of having comprehensive declaration system on cross borders activities and adequate resources in monitoring transportation of cash and bearer negotiable instruments. The compliance rating varies due to the effectiveness of the disclosure and declaration system conducted. Even though some countries have their disclosure and declaration system, they still have been rated as non-compliant (NC). Same goes to Malaysia. Country members have to understand that the disclosure and declaration system not only applied for cash, but also for other type of bearer negotiable instruments. There must be sufficient officers to monitor activities at the cross border with adequate understanding and awareness on SR IX. Member countries must also have close cooperation and coordination between enforcement agencies to ensure the effectiveness of seizure, fines, investigation and prosecution process related to cross-border currency transportation. The reported data must be adequate and analyzed to ease the detection of suspicious or false declaration. Declaration and disclosure system should not only be implemented at the airport, but all land border and seaport of a country. By fulfilling all requirements outlined under SR IX, this will help all members to curb money laundering and terrorism financing activities which involve transportation of cash and bearer negotiable instruments. Fig. 1 below presents the summary of compliant rating for 40 member countries.

5. Conclusion

In mitigating money laundering, FATF proposed 40 Recommendations + 9 Special Recommendations. SR IX specifically focuses on cross border declaration or disclosure. The review of the evaluation reports revealed that only the USA and Canada is fully complied with SR IX meanwhile only 42.5% of the member countries did not comply with SR IX. Most of the countries are partially complied with SR IX. These reviews highlight that a continuous and integrated efforts are required to protect the countries from involving in money laundering and terrorism financing activities. SR IX outlined that member countries must have measures to: (a) detect the physical cross border transportation of currency and bearer negotiable instruments; (b) stop or restrain currency and bearer negotiable instruments that are suspected to be related to terrorist financing or money laundering; (c) stop or restrain currency or bearer negotiable instruments that are falsely declared or disclosed; (d) apply appropriate sanctions for making a false declaration or disclosure; and (e) enable confiscation of currency or bearer negotiable instruments that are related to terrorist financing or money laundering. These measures are important in order to ensure that terrorists and other criminals cannot finance criminal proceeds through the physical cross-border transportation of currency and bearer negotiable instruments. However, there are member countries which still do not comply with the requirement. Therefore, there is a need to highlight on its importance to member countries and educate them to ensure that they fulfil the SR IX which will help the country in managing money laundering and terrorism financing risk. Besides the implementation of comprehensive declaration system, comprehensive training must also be conducted to the relevant authorities to ensure that they are able to detect, investigate and prosecute money laundering risk in regards to cross border declaration or disclosure. This study provides useful information to all member countries on issues that the countries are facing and actions that should be taken in order to achieve the compliance rating in the upcoming evaluation. The review in this study is limited to only published data which are the evaluation reports published by the Asia Pacific Group. Valuable insights can also be gained through in depth case studies of each local authority that is responsible in managing cross border declaration or disclosure in various jurisdictions.

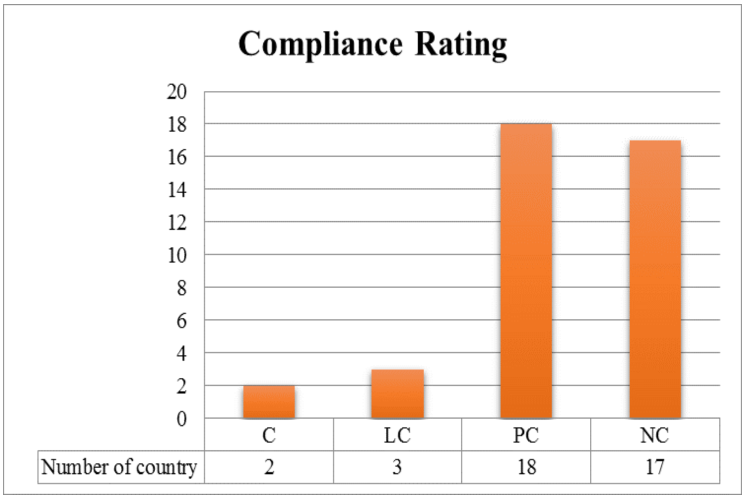

Figure 1. Summary of compliant rating for 40 countries

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